

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO.6340 OF 2007

Between:

Yousuf Ali, Ex.Lab Tecchnicial (Retd), Sarojini Devi Eye Hospital,
Hyderabad.

.....Petitioner

Vs.

- 1) The Government of Andhra Pradesh, represented by its
Secretary, Medical & Health & Family Welfare Department,
Secretariat, Hyderabad and four others.

.....Respondents.

THE HON'BLE SRI JUSTICE N.V.RAMANA

-
WRIT PETITION NO.6340 OF 2007

Order:

-

This writ petition is filed praying to call for the records from respondent No.3 pertaining to the fixation of pay of the petitioner as per proceedings No.1130/A3/80/SDEH, dated 28.03.1980 (MP-P1) and the clarifications issued by the Director of Medical Education, dated 19.06.1986 and the Pay Bills of arrears, objected to by the Pay & Accounts Officer, Hyderabad, and direct all the concerned to re-fix the pay of the petitioner in the revised pay scale of 1986 with effect from 01.07.1986, and consequently revise the pension and to pay the arrears according to rules with interest at 12% p.a., on the arrears from the date on which they fall due till the date of actual payment, as allowed by the Supreme Court of India, in several such cases.

The petitioner states that he was initially appointed as Lab Attendant on 01.04.1949. Thereafter, he was temporarily promoted as Lab Technician in the pay scale of Rs.50-90. As per the revised pay scales, the petitioner states that his pay was fixed in the pay scale of Rs.450-15-660-20-700, but on an objection raised by the Pay & Accounts Officer, the third respondent did not pay him the said scale. The petitioner states that aggrieved by the action of the third respondent, he filed O.A. No.570 of 1991 on the file of the Andhra Pradesh Administrative Tribunal, and the Tribunal, by order dated 28.11.1996, remanded the matter to the respondent-authorities for due examination and consideration of the matter. In spite of the said direction, it is the case of the petitioner that the respondents did not take any action, and in those circumstances, he initiated contempt proceedings in C.A. No. 543 of 1997, praying the Tribunal to punish the respondents for willful violation of its orders, and ultimately, the

contempt proceedings were closed.

The petitioner states that he being an employee of erstwhile Government of Hyderabad, and he having been allotted to State of Andhra Pradesh, as per the first proviso appended to G.O. Ms. No. 139, G.A. (Services-C) Department, he is exempted from passing the Lab Technician Course on attaining the age of 45 years, irrespective of whether passing of the said test has been prescribed as a condition precedent for promotion to a post one stage above the one held by him prior to 01.11.1956. The petitioner states that though the respondents extended the benefit of the pay scale of 450-700 in terms of the above G.O., they have denied the same to him, which is illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Government Pleader for Medical and Health for the respondents.

The petitioner, admittedly, was appointed as Lab Attendant. Though he did not pass the Lab Technical course, yet he was promoted to the post of Lab Technician. However, on the objection taken by the Pay and Accounts Office that since the petitioner did not pass the Lab Technician Course, he cannot be given the benefit of the pay scale, the respondents did not give him the benefit of the pay scale. Whether the petitioner having not passed the Lab Technician course, is entitled to be granted the new pay scale by extending the benefit of G.O. Ms. No. 139, G.A. (Services-C) Department, dated 28.03.1973, which exempts a person on attaining the age of 45 years from passing Lab Technician course, irrespective of whether passing of the said test has been prescribed as a condition precedent for promotion to a post one stage above that held by him prior to 01.11.1965, is a question, which has to be first decided by the A.P. Administrative Tribunal.

Since the petitioner is an employee of the State Government, he has to first approach the A.P. Administrative Tribunal. Therefore, the present writ petition, is not maintainable, and is accordingly dismissed. The petitioner, however, is at liberty to approach the A.P. Administrative Tribunal, and seek the relief claimed in the writ petition. No order as to costs.

N.V.RAMANA J.,

Dt.29.03.2007

Tjs